

# IOWA DEPARTMENT OF NATURAL RESOURCES

## ADMINISTRATIVE ORDER

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**IN THE MATTER OF:**

**CHAD J. HOPPE AND  
STEVE HOPPE, SHADY ACRES  
MOBILE HOME PARK**

**Chickasaw County, Iowa**

**ADMINISTRATIVE ORDER**

**NO. 2008-WW- 21**

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**TO: Chad J. Hoppe  
8002 West San Miguel Avenue  
Glendale, AZ 85303**

**Steve Hoppe  
Shady Acres Mobile Home Park  
2300 South Linn, Lot # 16  
New Hampton, IA 50659**

### **I. SUMMARY**

This administrative consent order (order) is issued to Chad J. Hoppe and Steve Hoppe, Shady Acres Mobile Home Park (Shady Acres), due to unauthorized wastewater discharges, operation of a waste disposal system without a permit and failure to upgrade the waste disposal system. This order assesses a \$4,000.00 administrative penalty.

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Susan J. Miller  
Environmental Specialist  
IDNR Field Office #1  
909 West Main Suite 4  
Manchester, IA 52057  
Ph: 563/927-2640

**Relating to legal requirements:**

Diana Hansen  
Attorney at Law  
Iowa Department of Natural Resources  
Henry A. Wallace Building, 502 E. 9<sup>th</sup> St.  
Des Moines, Iowa 50319-0034  
Ph: 515/281-6267

**Mail payment of penalty to:**

Iowa Department of Natural Resources  
Henry A. Wallace Building, 502 E. 9<sup>th</sup> St.  
Des Moines, Iowa 50310-0034

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**II. JURISDICTION**

This order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Chad J. Hoppe purchased Shady Acres, 2300 South Linn, New Hampton, Iowa in April 2004. Steve Hoppe is the manager of this mobile home park. Shady Acres is described as Parcel A-1 of the Survey of the NW ¼ of Section 30, Township 95 North, Range 12 West, Chickasaw County, Iowa. Shady Acres has a one-cell wastewater lagoon that is being operated without a state wastewater operation permit. The prior owners of this mobile home park were required by the Department to apply for a state operation permit to operate the wastewater treatment system for Shady Acres but never applied for the permit.

2. After learning that Shady Acres (formerly known as County Home Estates Mobile Home Park) was purchased by a new owner, the Department's Field Office No. 1 (FO 1) sent a certified letter to Steve Hoppe dated July 23, 2004. The letter informed Shady Acres that it was responsible for the same requirements placed on the previous owner of Shady Acres. Copies of all correspondence with the previous owner were forwarded to Shady Acres. The July 23, 2004 letter required a response as to how the new owner planned to address the wastewater treatment problem. A response to the letter was required within ten days.

3. On February 7, 2005, FO 1 issued a Notice of Violation to Chad or Steve Hoppe for operating a wastewater system without a permit.

4. On April 19, 2005, FO 1 received a Plan of Action prepared by TeKippe Engineering for Shady Acres. The plan recommended limiting the number of mobile homes in the park to 14 units and installing two or three septic tank and leach field systems.

5. On June 21, 2005, FO 1 sent a letter to Shady Acres informing the facility that the proposed Plan of Action would require approval from the Department and would also require a construction permit.

6. On April 24, 2007, FO 1 received a complaint from Ken Rasing, the Chickasaw County Sanitarian that the lagoon at Shady Acres was very full and could be overflowing.

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7. On April 25, 2007, FO 1 visited Shady Acres and found that the lagoon was completely full and was overflowing. The owner was instructed to have the lagoon pumped down to stop the discharge. The FO 1 inspector observed the wastewater from the lagoon flowing toward a nearby creek. The water was flowing over the dike on the north side of the lagoon.

8. On May 8, 2007, FO 1 issued a Notice of Violation to Shady Acres for a prohibited discharge and operating a wastewater treatment plant without a permit.

9. The mobile home park also experienced wastewater problems in early 1999. In February 1999, FO 1 received a complaint that the lagoon at Shady Acres was leaking onto a neighbor's property.

10. The Department has not received any application for a wastewater operation permit for Shady Acres and has never issued a wastewater operation permit to any current or previous owner of Shady Acres Mobile Home Park for operation of this mobile home park.

11. Steve Hoppe from Shady Acres informed FO 1 that the mobile home park will be closed and the property will be sold. Mr. Hoppe indicated that tenants were sent notices requiring them to move from Shady Acres by August 31, 2007. The FO 1 inspector confirmed that there are still trailers on the site as of May 5, 2008. Mr. Hoppe maintained that this facility should not have been required to obtain a wastewater operation permit for the operation of the waste disposal system at Shady Acres. He stated that the discharge pipe was capped when the mobile home park was purchased and that the lagoon is not able to discharge as originally designed and constructed. Mr. Hoppe stated that there has been no discharge from the lagoon since it was acquired in 2004 other than the April 2007 discharge. He maintains that the discharge in April 2007 was due to an extreme rain event. He also stated that he had wastewater hauled from the lagoon and disposed of at a nearby sewage treatment plant and that this cost several thousand dollars.

#### **IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455B.186 prohibits the discharge of pollutants to waters of the state without or contrary to a permit from the Department. Iowa Code section 455B.183 prohibits the construction or operation of waste disposal systems without or contrary to written permits from this Department. Iowa Code section 455B.174 authorizes the Director to issue permits for the operation of a disposal system.

Iowa Code section 455B.171(5) defines "disposal system". Disposal system is defined as "a system for disposing of sewage, industrial waste, or other wastes, or for the use or disposal of sewage sludge." The term "includes sewer systems, treatment works, point sources, dispersal systems, and any systems designed for the usage or disposal of sewage

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sludge.” The one cell lagoon at Shady Acres is included within this definition of a disposal system since it provides for the disposal of sewage.

The Department maintains that Shady Acres is in violation of these provisions since there has been a discharge from the wastewater disposal system serving the mobile homes at Shady Acres without a permit from the Department authorizing such a discharge.

2. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission (Commission) to promulgate rules relating to the operation of waste disposal systems and discharge of pollutants into waters of the state. The Commission has done so at 567 IAC chapters 60- 69. Subrule 62.1(1) prohibits the discharge of pollutants to waters of the state unless authorized by a permit from this Department. Subrule 64.3(1) prohibits the operation of a waste disposal system unless authorized by a permit from this Department and prohibits operation of any waste disposal system contrary to any condition of a permit.

It is the Department’s position that Shady Acres was required to obtain a wastewater operation permit from the Department since the lagoon was originally designed to discharge.

**V. ORDER**

THEREFORE, the Department orders Shady Acres to comply with the following provisions in order to resolve this matter:

1. You are required to discontinue all use of the existing wastewater treatment facility and to disconnect all connections from mobile homes and buildings to the wastewater treatment facility at Shady Acres by August 30, 2008. You are required to furnish documentation to FO 1 that the sewer lines have been disconnected by September 30, 2008. The documentation can be in the form of a letter or statement from the contractor performing the work.

2. You are required to not install any new sewer connections to the existing wastewater treatment facility and to not discharge from the existing wastewater lagoon.

3. You are required to properly close the existing lagoon by August 31, 2010 or earlier as agreed upon pursuant to any real estate agreement to sell the property. This would include pumping the liquid contents of the lagoon and transport of this liquid to a permitted wastewater treatment facility for treatment. The remaining sludge would be required to be land applied pursuant to 567 IAC chapter 67. A second option would be pump the liquid contents from the lagoon and to transport the liquid to a permitted wastewater treatment facility for treatment. The remaining sludge in the lagoon would be allowed to dry out and then be buried with material from the lagoon cell walls.

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4. An administrative penalty of \$4,000.00 is assessed and is due within sixty days after receipt of this order. If you appeal this order as outlined in Section VII below, the penalty is not due until the appeal is resolved by a final administrative order, final court order or agreement of the parties.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter. More serious criminal sanctions are also available pursuant to that provision.

2. Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10.

Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order an administrative penalty. The administrative penalty assessed by this order is determined as follows:

**a. Economic Benefit** This facility received an economic benefit in not applying for and receiving a state wastewater operation permit and in not upgrading the lagoon system. A substantial expenditure of funds would have been needed to upgrade this facility to meet design standards and requirements. Since the owner of this facility has elected to close the facility, no amount is assessed for this factor.

**b. Gravity of the Violations** Maintaining compliance with water pollution control laws is a major program priority of the federal and state pollution control agencies. The discharge of untreated or partially treated wastewater from the facility's current wastewater disposal system may potentially cause a threat to shallow groundwater used as a drinking water source. Surface discharges of untreated or partially treated wastewater may also pose a health risk to residents and visitors at the mobile home park. Based on these considerations \$2,000.00 is assessed for gravity of the violation.

**c. Culpability** The Department sent letters and notices of violation to this facility concerning the need to obtain a state wastewater operation permit, the prohibition against unauthorized discharges, and the need to upgrade this wastewater treatment facility. Despite these letters, this facility failed to apply for and obtain a state wastewater operation permit and failed to upgrade the wastewater treatment facility. Therefore, the amount of \$2,000.00 is assessed for culpability.

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**VII. Appeal Rights**

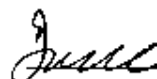
Pursuant to Iowa Code section 455B.175(1), and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, a written notice of appeal to the Commission may be filed within 30 days of receipt of this order. The notice of appeal should be filed with the Director of the Department, and must identify the specific portion or portions of this order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

**VIII. NONCOMPLIANCE**

Compliance with section "V. Order" constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of further administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties under Iowa Code section 455B.191.

  
RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 4 day of

, 2008

Chad J. Hoppe and Steve Hoppe- Shady Acres Mobile Home Park, Chickasaw County  
Wastewater File- Central Records, Sue Miller- Field Office No. 1, Diana Hansen-Legal  
Services, I.B.1, I.C.1.